

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICHAEL SNELLING,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	1:16-CV-00130-CC-AJB
v.)	
)	
OFFICER STROY,)	
)	
Defendant.)	
_____)	

**DEFENDANT ROBERT STROY'S MOTION TO DEEM FIRST REQUESTS FOR
ADMISSIONS OF FACT ADMITTED**

COMES NOW Defendant Robert Stroy ("Defendant"), by and through undersigned counsel, and pursuant to Fed. R. Civ. Pro. 36 (a)(3), hereby moves this Honorable Court for an order deeming admitted Requests for Admission Nos. 1-10 of Defendant's First Requests for Admissions of Fact to Plaintiff.

I. INTRODUCTION

On April 11, 2017, in an effort to narrow the issues in dispute before the Court, Defendant served his First Requests for Admissions of Fact upon Plaintiff pursuant to Fed. R. Civ. Pro. 36. See Exhibit A. Plaintiff timely responded on April 15, 2017, but he failed to answer or object to any of the matters addressed in Defendant's First Requests for Admissions

of Fact, except for Request No. 3,¹ and no cause or justification has been given for this failure. See Exhibit B. By operation of law, Fed. R. Civ. Pro. 36(a)(3), "a matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection."

II. FACTUAL AND PROCEDURAL BACKGROUND

On April 11, 2017, Plaintiff was served via first class mail with Defendant's First Requests for Admissions of Fact regarding ten (10) matters:

First, Plaintiff was asked to admit that Officer Stroy was unaware that Inmate Thomas posed a risk of physical harm to Plaintiff. (RFA #1)

Second, Plaintiff was asked to admit that Officer Stroy never received any documentation from any Fulton County Jail personnel informing him that Inmate Thomas posed a risk to Plaintiff. (RFA #2)

Third, Plaintiff was asked to admit that Officer Stroy was not aware that any grievances had been filed against Inmate Thomas. (RFA #3)

¹ Defendant believes that Request No. 3 should be deemed admitted because Plaintiff neither admitted nor denied the request for admission nor did he object to the request.

Fourth, Plaintiff was asked to admit that he was not aware that Inmate Thomas intended to assault him prior to the assault. (RFA #4)

Fifth, Plaintiff was asked to admit that he did not file any grievances against Inmate Thomas prior to the assault. (RFA #5)

Sixth, Plaintiff was asked to admit that he never informed any Fulton County Jail staff that Inmate Thomas posed a threat to him prior to the assault. (RFA #6)

Seventh, Plaintiff was asked to admit that he never informed Officer Stroy that Inmate Thomas posed a threat to him prior to the assault. (RFA #7)

Eighth, Plaintiff was asked to admit that he did not see Officer Stroy escort Inmate Thomas into the location in which Inmate Thomas assaulted Plaintiff. (RFA #8)

Ninth, Plaintiff was asked to admit that he did not see Officer Stroy remove any physical restraints from Inmate Thomas prior to the assault. (RFA #9)

Tenth, Plaintiff was asked to admit that Officer Stroy was not aware that Plaintiff was present at the kiosk machine when Officer Stroy allegedly released Inmate Thomas from restraints. (RFA #10)

Except for RFA #3, Plaintiff has not filed any response to the nine (9) other matters propounded in Defendant's First Requests for Admissions of Fact that were served on April 11, 2017.

III. LEGAL ARGUMENT

A matter is admitted unless, within thirty (30) days after being served, the party to whom a request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. Fed. R. Civ. Pro. 36(a)(6). Courts have consistently enforced this rule. U.S. v. 2204 Barbara Lane, 960 F.2d 126, 129 (11th Cir. 1992). Here, Plaintiff has not filed a response at all to nine (9) of the requests for admission (and Plaintiff failed to admit, deny or object to the one request to which he did respond) and more than thirty (30) days have elapsed since service of the First Requests for Admissions of Fact to Plaintiff. Thus, as a matter of law, Plaintiff admits all ten (10) matters addressed in Defendant's First Requests for Admissions of Fact.

IV. CONCLUSION

Based upon the foregoing, Defendant respectfully requests that all ten (10) matters addressed in Defendant's First

Requests for Admissions of Fact be considered admitted pursuant to Fed. R. Civ. Pro. 36(a)(6).

Respectfully submitted this 12th day of July, 2017.

OFFICE OF THE FULTON COUNTY ATTORNEY

Patrise Perkins-Hooker
County Attorney
Georgia Bar No. 572378

Kaye W. Burwell
Deputy County Attorney
Georgia Bar No. 775060

/s/ Ashley J. Palmer

Ashley J. Palmer
Senior Assistant County Attorney
Georgia Bar No. 603514
ashley.palmer@fultoncountyga.gov

141 Pryor Street, S.W.
Suite 4038
Atlanta, Georgia 30303
(404) 612-0246 (office)
(404) 730-6324 (facsimile)

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that the foregoing **DEFENDANT ROBERT STROY'S MOTION TO DEEM ADMITTED DEFENDANT'S FIRST REQUESTS FOR ADMISSIONS OF FACT** has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1C and that I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system. I further certify that a copy of the foregoing will be served upon the following *pro se* inmate plaintiff by U.S. Mail and addressed as follows:

Michael Snelling
GDC# 1099143
Baldwin State Prison
P.O. Box 218
Hardwick, Georgia 31034

Respectfully submitted, this 12th day of July, 2017.

/s/ Ashley J. Palmer

Ashley J. Palmer

Georgia Bar No. 603514

ashley.palmer@fultoncountyga.gov

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